



# U.S. DEPARTMENT *of* STATE

## COMPETITIVE SOURCING PROGRAM OFFICE

### **2007 FAIR Act Inventory Challenge Process**

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Every year, the Department of State submits an annual inventory of commercial and inherently governmental activities to the Office of Management and Budget (OMB) in accordance with the Federal Activities Inventory Reform (FAIR) Act and OMB Circular A-76 policy.

Upon receipt, OMB reviews and publishes a notice in the Federal Register indicating the inventories are available for public review. A copy of the inventory is located at [cspo.state.gov](http://cspo.state.gov).

OMB published the notice of availability for the Department of State's 2007 inventory on June 17, 2008. An "interested party" has 30 working days to submit a written challenge to the Department's decision to include or exclude a particular activity from competition.

This means that between June 17, 2008 and July 30, 2008, the way activities are coded on the 2007 inventory can be challenged. The OMB circular states that function codes are not subject to a challenge, only reason codes can be challenged. Reason codes designate whether or not an activity is included or excluded from competition. Basically, a challenge is limited to the reclassification of an activity as inherently governmental or commercial or exempt from competition.

[Who can Challenge?](#)

Under Section 3 of the FAIR Act, an "interested party" may challenge the Department of State's decision to include or exclude a particular activity from the

Commercial Activities Inventory. Section 3(b) of the FAIR Act defines “interested party” as:

- a. A **private sector source** that (A) is an actual or prospective offeror for any contract or other form of agreement to perform the activity; and (B) has a direct economic interest in performing the activity that would be adversely affected by a determination not to procure the performance of the activity from a private sector source.
- b. A **representative of any business or professional association** that includes within its membership private sector sources referred to in a. above.
- c. An **officer or employee** of an organization within an executive agency that is an actual or prospective offeror to perform the activity.
- d. The **head of any labor organization** referred to in section 7103(a) (4) of title 5, United States Code that includes within its membership officers or employees of an organization referred to in c. above.

### When is a Challenge submitted?

The Challenge must be submitted within 30 working days after OMB publishes a notice in the Federal Register.

Within 28 working days of receiving an inventory challenge, the Challenge Official must provide a decision to the challenge.

### How is a Challenge initiated?

At the Department of State, a challenge can be addressed to the challenge official at the following address:

Inventory Challenge Official  
Attn: Bureau Coordinator  
Department of State  
C/O Jason Passaro  
SA-15, Suite 840  
Washington, D.C. 20522

### **What happens if the initial Challenge is not favorable?**

The Challenge decision letter will contain an explanation of the interested party's right to file an appeal.

### **How is an Appeal initiated?**

Upon receipt of an adverse inventory challenge decision, an interested party has 10 working days to submit a written appeal of this decision to the appeal authority.

This appeal letter is submitted to:

Jason Passaro  
Director, Competitive Sourcing Program Office, Acting  
Department of State  
SA-15, Suite 840  
Washington, D.C. 20522

### **What happens after an Appeal?**

Within 10 working days of receiving an appeal, the inventory appeal official will transmit a written appeal decision with a rationale for that decision.